

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9714 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

GHASURA SOKATALI AJAMKHAN

Versus

STATE OF GUJARAT

Appearance:

MR YN OZA for Petitioners

MR VB GHARANIA for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/07/1999

ORAL JUDGEMENT

#. Rule. Mr.Gharania waives service of Rule on behalf of respondents.

#. Heard the learned counsel for the parties.

#. Though the learned counsel for the petitioners, with all vehemence at his command, tried to persuade this Court that the list in which the names of the petitioners are there, is a merit list, but it is only a waiting

list. The learned counsel for the petitioners, during the course of arguments, is not in a position to satisfy this Court that all the vacancies which were notified for filling in by selection have not been filled in. In the absence of this affirmative reply from the petitioners, it has to be taken that all the vacancies advertised were filled in from the candidates who were there on the merit list. The contention of the learned counsel for the petitioners also goes in favour of this finding as given by this Court. He stated that the vacancies which were subsequently created have to be filled in as currency from the list thereof was one year. Currency of the main list may be for some fixed term, but it cannot be made applicable to the waiting list. The moment the main list is exhausted, the waiting list stands exhausted automatically. The learned counsel for the petitioners admitted before this Court that after inviting applications for the open selection, proposals have been made for creation of more posts of constables and those proposals were accepted after selection. For those vacancies, in fact, this petitions is an attempt made by petitioners, to be filled in from this waiting list. That cannot be done. Reference here fruitfully may have to the decision of the Apex Court in the case of State of Rajasthan v. Rajendra Kumar Rawal reported in 1989 (Suppli.)(2) SCC 268. Those vacancies which were created after the select list are to be filled in by inviting fresh applications for open selection. In case these vacancies are filled in from the waiting list, it will not only be contrary to Articles 14 and 16 of the Constitution of India but also contrary to the decision of the Apex Court in the case of Prem Singh v. HSEB reported in 1996(4) SCC 319.

#. This writ petition has no merits and the same is dismissed.

(S.K.Keshote, J.)

[sunil]